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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,412	03/25/2004	William T. Walker	4366-148	3274
48500	7590	09/08/2006	EXAMINER	
SHERIDAN ROSS P.C. 1560 BROADWAY, SUITE 1200 DENVER, CO 80202			ARTHUR JEANGLAUD, GERTRUDE	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/811,412	WALKER, WILLIAM T.	
	Examiner	Art Unit	
	Gertrude Arthur-Jeanglaude	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-15, 18-27, 29-34 and 47-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-15, 18-27, 29-34 and 47-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/10/06; 5/22/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 112

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the two wherein clauses appear uncorrelated.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7-15, 18-27, 29-34, 47-60 are rejected under 35 U.S.C. 102(e) as being anticipated by Wall (U.S. 20020017977).

Wall discloses a method and apparatus for licensing and controlling access, use, and viability of product (e.g., computational component) utilizing geographical (e.g., GPS) position. According to Wall, there is provided whether an intended use of a computational component (e.g., 103, [0084] is permitted by (a) determining a geographic location (such as by a GPS device or module) of at least one of the

computational component and a key device in communication with the computational component [0030], (b) comparing the geographic location (such as with a validation agent like a processor) with at least one predetermined geographic location permitted by the license [0031], and (c) when the geographic location is not a permitted geographic location under the license, determining that use of the computational component is not permitted [0030]. According to Wall, (d) when the geographic location is a permitted geographic location under the license, determining that use of the computational component is permitted [0030]. Also, see paragraphs [0087-0088]. According to Wall, the step of determining a geographic location comprises the steps of determining GPS coordinates of the at least one of the computational component and key device and converting the GPS coordinates into a region identifier, wherein the permitted geographic location is one or more region identifiers and wherein [in the determining step (c)] the geographic location is a permitted geographic location when the region identifier identified in the converting step is included in the one or more region identifiers [0096-0097]. According to Wall, the at least one of the computational component and a key device is the computational component and a key device is the computational component or the key device. See figures 1 and 3. The permitted use is defined by a license, according to Wall, and method of determining permitted use further comprises the steps of determining whether

The key device is in communication with the computational component, (e) when the key device is not in communication with the computational component, determining that the computational component is not validly licensed; and (f) when the key device is in

communication with the computational component, determining that the computational component is validly licensed. Also known as a validation agent in the computational component See figure 5 and paragraphs [0107, 0136-0140]. In addition, Wall discloses (d) authenticating the key device and when the key device is not authenticated successfully, determining that the computational component is not validly licensed. See page 10. as described on page 7, paragraphs [0101, 0105], Wall discloses a computer readable medium comprising instructions, when executed by a computer (e.g., processor 103) causing the computer to perform the aforementioned steps. Wall discloses a logic circuit (e.g. processor or computer) operable to perform the aforementioned steps. Additionally, Wall discloses receiving Global Positioning System (GPS) information from a GPS receiver [0030], the GPS information comprising at least one of a geographic location and a clock setting [0030, 0038, 0091-0094], wherein the geographic location is associated with the location of at least one of the computational component and a key device in communication with the computational component. Wall also discloses comparing the geographic location with at least one predetermined geographic location permitted by the license; and comparing the clock setting with an expiration date of the license. According to Wall, when the geographic location is not a permitted geographic location under the license and/or when the clock setting is outside of the permissible term of the license, determining that use of the computational component is not permitted. Also known as licensing validation agent in the computational component See paragraphs [0090-0094, 0101-0105].

Response to Arguments

Applicant's arguments filed 5/24/06 have been fully considered but they are not persuasive.

In response to Applicant's representative arguments, Applicant's representative argues that Wall fails to teach or suggest the use of an external dongle containing a location (e.g., GPS) module in license verification (claims 1, 12, and 23) and the determination whether the dongle is "local" to the licensed computational component to prevent remote use of the dongle within the permitted geographic parameters (as part of a distributed processing network) to license a component located outside the permitted geographic parameters (claim 23). Examiner respectfully disagrees because the Wall prior art discloses at paragraph 0030 an interface that can act as a dongle between the receiver and computers and also discloses license verification in paragraph 0031. Moreover, according to SearchSMB.com Definitions, "a dongle is a mechanism for ensuring that only authorized users can copy or use specific software applications, especially very expensive programs. Common mechanisms include a hardware key that plugs into a parallel or serial port on a computer and that a software application accesses for verification before continuing to run". It is therefore believed that Wall discloses such teachings.

Also Applicant's representative argues that by way of nonlimiting example, dependent claims 7, 18, and 29, require a licensing validation agent in the computational component to determine whether the key device is in communication with the communication with the computational component; when the key device is not in communication with the computational component, to determine that the computational

component is not validly licensed; and when the key device is in communication with the computational component, to determine that the computational component is validly licensed. However, the prior art "Wall" at paragraph 0033 discloses the teaching of a licensing validation agent in the computational component also see paragraphs [0090-0094, 0101-0105] as stated in the office action.

Moreover, Applicant's representative argues that the prior art Wall fails to teach authentication of an external locating device, such as a dongle, using a unique identifier. The examiner pointed out the licensing validation agent [0033] and also authentication of an external device using a unique identifier (secure code 0031).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gertrude Arthur-Jeanglaude whose telephone number is (571) 272-6954. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gaj


GERTRUDE A. JEANGLAUDE
PRIMARY EXAMINER